

Subpart Q—United States-Peru Trade Promotion Agreement

SOURCE: 76 FR 68072, Nov. 3, 2011, unless otherwise noted.

GENERAL PROVISIONS

§ 10.901 Scope.

This subpart implements the duty preference and related customs provisions applicable to imported and exported goods under the United States-Peru Trade Promotion Agreement (the PTPA) signed on April 12, 2006, and under the United States-Peru Trade Promotion Agreement Implementation Act (the Act; Pub. L. 110–138, 121 Stat. 1455 (19 U.S.C. 3805 note)). Except as otherwise specified in this subpart, the procedures and other requirements set forth in this subpart are in addition to the customs procedures and requirements of general application contained elsewhere in this chapter. Additional provisions implementing certain aspects of the PTPA and the Act are contained in Parts 24, 162, and 163 of this chapter.

§ 10.902 General definitions.

As used in this subpart, the following terms will have the meanings indicated unless either the context in which they are used requires a different meaning or a different definition is prescribed for a particular section of this subpart:

(a) *Claim for preferential tariff treatment.* “Claim for preferential tariff treatment” means a claim that a good is entitled to the duty rate applicable under the PTPA to an originating good and to an exemption from the merchandise processing fee;

(b) *Claim of origin.* “Claim of origin” means a claim that a textile or apparel good is an originating good or satisfies the non-preferential rules of origin of a Party;

(c) *Customs authority.* “Customs authority” means the competent authority that is responsible under the law of a Party for the administration of customs laws and regulations;

(d) *Customs duty.* “Customs duty” includes any customs or import duty and a charge of any kind imposed in connection with the importation of a good, including any form of surtax or sur-

charge in connection with such importation, but, for purposes of implementing the PTPA, does not include any:

(1) Charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994 in respect of like, directly competitive, or substitutable goods of the Party, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;

(2) Antidumping or countervailing duty that is applied pursuant to a Party’s domestic law; or

(3) Fee or other charge in connection with importation;

(e) *Customs Valuation Agreement.* “Customs Valuation Agreement” means the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994*, which is part of the WTO Agreement;

(f) *Days.* “Days” means calendar days;

(g) *Enterprise.* “Enterprise” means any entity constituted or organized under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, sole proprietorship, joint venture, or other association;

(h) *GATT 1994.* “GATT 1994” means the *General Agreement on Tariffs and Trade 1994*, which is part of the *WTO Agreement*;

(i) *Harmonized System.* “Harmonized System” means the *Harmonized Commodity Description and Coding System*, including its General Rules of Interpretation, Section Notes, and Chapter Notes, as adopted and implemented by the Parties in their respective tariff laws;

(j) *Heading.* “Heading” means the first four digits in the tariff classification number under the Harmonized System;

(k) *HTSUS.* “HTSUS” means the *Harmonized Tariff Schedule of the United States* as promulgated by the U.S. International Trade Commission;

(l) *Identical goods.* “Identical goods” means goods that are the same in all respects relevant to the rule of origin that qualifies the goods as originating goods;

(m) *Indirect material*. “Indirect material” means a good used in the production, testing, or inspection of another good in the territory of one or both of the Parties but not physically incorporated into that other good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of another good in the territory of one or both of the Parties, including:

- (1) Fuel and energy;
- (2) Tools, dies, and molds;
- (3) Spare parts and materials used in the maintenance of equipment or buildings;
- (4) Lubricants, greases, compounding materials, and other materials used in production or used to operate equipment or buildings;
- (5) Gloves, glasses, footwear, clothing, safety equipment, and supplies;
- (6) Equipment, devices, and supplies used for testing or inspecting the good;
- (7) Catalysts and solvents; and
- (8) Any other goods that are not incorporated into the other good but the use of which in the production of the other good can reasonably be demonstrated to be a part of that production;

(n) *Originating*. “Originating” means qualifying for preferential tariff treatment under the rules of origin set out in Chapter Four and Article 3.3 of the PTPA, and General Note 32, HTSUS;

(o) *Party*. “Party” means the United States or Peru;

(p) *Person*. “Person” means a natural person or an enterprise;

(q) *Preferential tariff treatment*. “Preferential tariff treatment” means the duty rate applicable under the PTPA to an originating good, and an exemption from the merchandise processing fee;

(r) *Subheading*. “Subheading” means the first six digits in the tariff classification number under the Harmonized System;

(s) *Textile or apparel good*. “Textile or apparel good” means a good listed in the Annex to the Agreement on Textiles and Clothing (commonly referred to as “the ATC”), which is part of the WTO Agreement, except for those goods listed in Annex 3-C of the PTPA;

(t) *Territory*. “Territory” means:

(1) With respect to Peru, the continental territory, the islands, the maritime areas and the air space above them, in which Peru exercises sovereignty and jurisdiction or sovereign rights in accordance with its domestic law and international law;

(2) With respect to the United States:

(i) The customs territory of the United States, which includes the 50 states, the District of Columbia, and Puerto Rico;

(ii) The foreign trade zones located in the United States and Puerto Rico; and

(iii) Any areas beyond the territorial seas of the United States within which, in accordance with international law and its domestic law, the United States may exercise rights with respect to the seabed and subsoil and their natural resources;

(u) *WTO*. “WTO” means the World Trade Organization; and

(v) *WTO Agreement*. “WTO Agreement” means the *Marrakesh Agreement Establishing the World Trade Organization* of April 15, 1994.

IMPORT REQUIREMENTS

§ 10.903 Filing of claim for preferential tariff treatment upon importation.

(a) *Basis of claim*. An importer may make a claim for PTPA preferential tariff treatment, including an exemption from the merchandise processing fee, based on:

(1) A certification, as specified in § 10.904 of this subpart, that is prepared by the importer, exporter, or producer of the good; or

(2) The importer’s knowledge that the good is an originating good, including reasonable reliance on information in the importer’s possession that the good is an originating good.

(b) *Making a claim*. The claim is made by including on the entry summary, or equivalent documentation, the letters “PE” as a prefix to the subheading of the HTSUS under which each qualifying good is classified, or by the method specified for equivalent reporting via an authorized electronic data interchange system.

(c) *Corrected claim*. If, after making the claim specified in paragraph (b) of this section, the importer has reason to